

BOARD:
Allen Amsler
Chairman

Mark S. Lutz
Vice Chairman

Ann B. Kirol, DDS
Secretary



Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

BOARD:
R. Kenyon Wells
Charles M. Joye II, P.E.
L. Clarence Batts, Jr.
John O. Hutto, Sr., MD
William Lee Hewitt, III

Minutes of the November 13, 2014, meeting of the South Carolina Board of Health and Environmental Control

The South Carolina Board of Health and Environmental Control met on Thursday, November 13, 2014, at 10:00 a.m. in the Board Room (#3420) of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina. (Attachment 0-1)

The following members were in attendance:

Mark Lutz, Vice-Chairman
1st District

R. Kenyon Wells
2nd District

Charles M. Joye, II, P.E.
3rd District

L. Clarence Batts
4th District

John O. Hutto, Sr., MD
6th District

William Lee Hewitt, III
7th District

Also in attendance were Catherine B. Templeton, Director; W. Marshall Taylor, Jr., General Counsel; Lisa L. Longshore, Clerk; Department staff and members of the public. (Attachment 0-2)

Vice-chairman Lutz called the meeting to order and stated notice of this meeting had been provided to all persons, organizations and news media, which have requested notification, as required by Section 30-4-80(e) of the South Carolina Code of Laws.

Item 1: Minutes of October 9 meeting and October 15 conference call (Attachment 1-1)

Mr. Hewitt moved, seconded by Mr. Batts, to approve the minutes as submitted for the October 9 and October 15 meetings. The Board voted and Motion carried.

Item 2: Administrative and Consent Orders issued by Environmental Affairs (Attachment 2-1)

Ms. Robin Stephens, Assistant to the Deputy Director, EQC, stated five (5) Administrative Orders and sixty-one (61) Consent Orders had been issued with total penalties of \$135,180.

After discussion, *the Board accepted this item as information.*

Item 3: Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation (Attachment 3-1)

Ms. Bentley White, Health Regulation Program Manager, stated seven (7) Consent Orders had been issued with total penalties of \$28,500.

After discussion, *the Board accepted this item as information.*

Item 4: Proposed Amendment of Regulation 61-107.3, Solid Waste Management: Waste Tires, Legislative Review is required (Attachment 4-1)

Mr. Kent Coleman, Director, Division of Mining and Solid Waste Management, presented this item to the Board.

The Department proposed to amend Regulation Section 61-107.3, Solid Waste Management: Waste Tires. This regulation section became effective April 23, 1993, and has never been amended.

This proposed amendment clarifies manifesting, reporting and registration requirements; establishes financial assurance requirements for waste tire haulers; and expands exemptions for certain tire collection and hauling activities. The revision clarifies violations and penalties for violations. The regulation was reformatted for clarity.

A stakeholder workgroup developed the criteria on which the proposed regulation revision is based. The Department conducted a stakeholder meeting and circulated multiple versions of the drafted revisions for comment from the stakeholder members. Comments received during the stakeholder process were considered as revisions were developed, and contributed significantly to the development of the regulation proposed for public comment. Issues were brought forth for consideration and resolved during the meeting and by email. The workgroup included private sector representatives including tire manufacturers, tire retailers, waste tire haulers, waste tire processors, and representatives of the waste management industry. Input was solicited from representatives of environmental organizations and the South Carolina Retail Association. Public sector representation was provided by federal, state, county and municipal government representatives, state and local mosquito control officials, the South Carolina Association of Counties, the South Carolina Municipal Association, the South Carolina Department of Commerce, and Department staff.

After discussion, *Mr. Batts moved, seconded by Mr. Wells, to grant approval to publish a Notice of Proposed Regulation for R.61-107.3, Solid Waste Management: Waste Tires, in the State Register, to provide opportunity for public comment, to receive and consider comments,*

and allow staff to proceed with a public hearing before the Board. The Board voted and Motion carried.

Item 5: Proposed New Regulation 61- , Consumer Electronic Equipment Collection and Recovery, Legislative Review is required (Attachment 5-1)

Mr. Coleman presented this item to the Board.

The South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act (hereafter referred to as the Act), codified at Section 48-60-5 et seq., S.C. Code of Laws, establishes requirements for the sale, and recovery of covered electronic devices, specifically for household computers, printers, monitors and televisions. The Act requires the Department staff to promulgate regulations to execute the provisions of the Act. The Act became effective July 1, 2011 and was amended March 3, 2014.

To satisfy the requirements of the Act, staff proposed new Regulation, Electronic Equipment Collection and Recovery. The proposed regulation established standards for labeling covered devices. The proposed regulation establishes procedures for banning covered devices from disposal in solid waste landfills. The proposed regulation specifies annual registration fees for manufacturers of covered computer devices, covered computer monitors and covered televisions. The proposed regulation addresses responsibilities of manufacturers and retailers of covered electronic devices as defined by the Act, standards for the safe, environmentally responsible recovery, recycling of devices at end of life and annual reporting requirements. The regulation also established fines for violations of the Act and the regulation.

Department staff consulted with representatives of the television and computer manufacturing industries, electronics recyclers, as well as representatives of private and local government solid waste management authorities informally on occasion and formally at least three times. These meetings contributed significantly to the development of the proposed regulation for public comment. Issues were brought forth for consideration and resolved during the meetings.

After discussion, Mr. Hewitt moved, seconded by Mr. Batts, to grant approval to publish a Notice of Proposed Regulation for New Regulation, Consumer Electronic Equipment Recovery, in the State Register, to provide opportunity for public comment, to receive and consider comments, and allow staff to proceed with a public hearing before the Board. The Board voted and Motion carried.

Item 6: Proposed Amendment of R.61-79, Hazardous Waste Management Regulations, Legislative Review is required (Attachment 6-1)

Mr. David Scaturo, Director, Division of Waste Management, presented this item to the Board.

Pursuant to S.C. Code Section 44-56-30, the South Carolina Department of Health and Environmental Control (Department) proposed to amend S.C. Regulation 61-79, *Hazardous Waste Management Regulations*, as follows:

- To adopt the “Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents,” published on January 18, 2011 at 75 FR 78918-78926;
- to adopt the “Academic Laboratories Generator Standards Technical Corrections,” published on December 20, 2010 at 75 FR 79304-79308;
- to adopt the “Revision of the Land Disposal Treatment Standards for Carbamate Wastes,” published on August 11, 2011 at 76 FR 34147-34157;
- to adopt the “Hazardous Waste Technical Corrections and Clarifications,” published on May 14, 2012 at 77 FR 22229-22232;
- to adopt the “Conditional Exclusions for Solvent Contaminated Wipes,” published on January 31, 2014 at 78 FR 46448-46485;
- to incorporate three recommended changes identified in its internal 2013 review for the South Carolina Governor’s Regulatory Review Task Force in order to provide consistency with existing federal regulations.

The Department met with the South Carolina Department of Commerce Environmental Technical Subcommittee on October 4, 2013 regarding adoption of the “Conditional Exclusions for Solvent Contaminated Wipes” rule. The Subcommittee expressed support for adoption of this rule.

After discussion, *Dr. Hutto moved, seconded by Mr. Hewitt, to grant approval to publish the Notice of Proposed Regulation 61-79, Hazardous Waste Management Regulations, in the State Register, to provide opportunity for public comment, to receive and consider comments, and allow staff to proceed with a public hearing before the Board. The Board voted and Motion carried.*

Item 7: Proposed Revision of Regulation 61-7, Emergency Medical Services, Legislative Review is required (Attachment 7-1)

Mr. Robert Wronski, Director, Division of Emergency Medical Services and Trauma, presented this item.

The Department completed a five year review R. 61-7. As a result of the review, the Department proposed to amend R.61-7 to incorporate changes in the Emergency Medical Services Act of South Carolina, S.C. Code Ann. Section 44-61-10 et. seq. (Supp. 2013). Specifically, the amendments will incorporate updated statutory requirements for EMT certification and training; update the vehicle equipment list to accepted current industry standards; modify the ground ambulance requirement to reflect the most current standards; change the air ambulance requirements to reflect the latest statutory amendments; incorporate requirements for ambulance drivers into the regulation; modify the name of first responder agencies to rapid response agencies; add and update definitions; and rewrite the certification and training section. The Department is also amending the regulation, to include corrections for clarity and readability, grammar, punctuation, definitions, references, codification and overall improvement of the text of the regulation.

The Department transmitted a copy of the proposed text of R.61-7 to the EMS Advisory Board, the Medical Control Physician Committee, the State Medical Control Physician, and the South

Carolina EMS Association. The Department considered, received and incorporated comments as appropriate.

After discussion, *Mr. Wells moved, seconded by Mr. Batts, to grant approval to publish the Notice of Proposed Regulation for R.61-7, Emergency Medical Services, in the State Register, to provide opportunity for public comment, to receive and consider comments, and allow staff to proceed with a public hearing before the Board. The Board voted and the Motion carried.*

Item 8: Proposed Revision of Regulation 61-17, Standards for Licensing Nursing Homes, Legislative Review is required (Attachment 8-1)

Ms. Gwen Thompson, Director, Bureau of Health Facilities Regulation, presented this item to the Board.

The Department proposed amending R.61-17 to incorporate recommended changes identified in its internal 2013 review for the South Carolina Governor's Regulatory Review Task Force in 2013. The proposed amendments also incorporate provisions relating to licensing requirements and procedures, governing authority and management, staff and training, accident/incident reporting, professional care, functional safety, infection control and environment, dietary services, design and construction, and fire protection/prevention. The amendments incorporated current provider-wider exceptions, memoranda, and governing statutory authority applicable to nursing homes.

After discussion, *Mr. Batts moved, seconded by Mr. Joye, to grant approval to publish the Notice of Proposed Regulation for R.61-17, Standards for Licensing Nursing Homes, in the State Register, to provide opportunity for public comment, to receive and consider comments, and allow staff to proceed with a public hearing before the Board. The Board voted and Motion carried.*

Item 9: Proposed Revision of Regulation 61-15, Certification of Need for Health Facilities and Services, Legislative Review is required (Attachment 9-1)

Mr. Sam Phillips, Director, Certificate of Need Program, presented this item to the Board.

Pursuant to S.C. Code Section 44-7-150(3), the South Carolina Department of Health and Environmental Control (Department) proposed amending S.C. Regulation 61-15, *Certification of Need for Health Facilities and Services*, as follows:

- to delete Section 101;
- to delete Section 102;
- to revise Section 103 to amend the timeframe for submitting a "competing application," to clarify the procedures for collecting "Fees" used by the Certificate of Need program, to add the term "implemented" to the definitions, and to delete certain definitions that are unnecessarily duplicative of S.C. Code Section 44-7-130 or other statutory authority. This provision will be renumbered as Section 101;

- to add Section 102 to clarify the “Timing” requirement for deadlines that fall on weekends and holidays that was previously addressed in Section 304(4);
- to add Section 103 to modify the monetary thresholds for Certificate of Need review of capital expenditures and acquisitions of equipment referenced in S.C. Code Section 44-7-160(3) and (6) that were previously addressed in Section 102;
- to revise Section 104 to simplify the requirements for obtaining an exemption from Certificate of Need review pursuant to S.C. Code Section 44-7-170;
- by deleting Section 105 (Non-Applicability Determination) due to introduction of the web-based Certificate of Need application and the revision to Section 104 of this Regulation;
- revise Section 106 to simplify the procedures for the South Carolina Health Plan. This provision will be renumbered as Section 105;
- by deleting Chapter 2 (Sections 201 & 202) because these provisions will be supplanted by the implementation of a web-based Certificate of Need application and other revisions to this Regulation; to revise Section 301 to conform the application procedures set forth therein to the requirements of the new web-based Certificate of Need application. This provision will be renumbered as Section 201;
- to add Section 202 that sets forth the requirement to post notice that the Department has accepted a Certificate of Need application for filing;
- to delete Section 302 (Additional Information);
- add Section 203 that sets forth the requirement to post notice that the Department has deemed a Certificate of Need application to be complete;
- by deleting Sections 303 thru 312, which are unnecessarily duplicative of statutory provisions or which have been supplanted by the implementation of a web-based Certificate of Need application and other revisions to this Regulation, and replacing them with the following Sections: 301 (Project Changes During Review Period), 302 (Project Changes After Receipt of Certificate of Need), 303 (Implementation and Extension Procedures), 304 (Reporting of Certificate of Need Implementation), and 305 (Joint Annual Reports);
- to delete Chapters 4, 5, 6, 7, 8 and the existing Appendix A to simplify the Certificate of Need application and implementation processes, and conform the existing Regulation to the new web-based Certificate of Need application. Additionally, some of the deleted provisions were unnecessarily duplicative of the requirements set forth in S.C. Code Sections 44-1-60, 44-7-190, 44-7-210, 44-7-230, 44-7-320, 44-7-340 and related authority;
- to add Section 401 to simplify and focus the Certificate of Need project review criteria in compliance with S.C. Code Section 44-7-190.

After discussion, Mr. Batts moved, seconded by Dr. Hutto, to grant approval to publish the Notice of Proposed Regulation for 61-15, Certification of Need for Health Facilities and Services, in the State Register, with the following revisions raised and discussed by the Board: to cut the two monetary thresholds in half; to provide opportunity for public comment, to receive and consider comments; and allow staff to proceed with a public hearing before the Board. The Board voted and the Motion failed by a vote of 2-3.

After discussion, *Mr. Wells moved, seconded by Mr. Joye, to grant approval to publish the Notice of Proposed Regulation for 61-15, Certification of Need for Health Facilities and Services, in the State Register, to provide opportunity for public comment, to receive and consider comments, and allow staff to proceed with a public hearing before the Board. The Board voted and the Motion carried by a vote of 3-2 with Mr. Batts and Dr. Hutto being the dissenting votes.*

Item 10: 2015 Board meeting dates (Attachment 10-1)

Mr. Joye moved, seconded by Mr. Batts to approve the regular meeting dates for 2015. The Board voted and the Motion carried.

Item 11: Agency Affairs (Attachment 11-1)

Director Templeton reported on the following: Ebola, Pinewood and CON Online Application. Director Templeton introduced Ms. Sara Bazemore as the new Deputy Director of Ocean and Coastal Resource Management.

Item 12: Legal Report

No Report.

Director Templeton asked for an executive session to discuss a personnel matter.

Mr. Wells moved, seconded by Mr. Batts, to go into Executive Session for the purpose of discussing a personnel matter. The Board voted and the Motion carried.

Vice-Chairman Lutz announced that while in Executive Session no actions were taken.

The meeting adjourned.

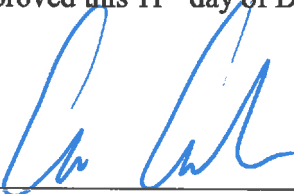
All referenced attachments are made a permanent part of these minutes.

Respectfully submitted,


Ann B. Kirol, DDS, Secretary

Minutes approved this 11th day of December 2014.

ATTEST:


Allen Amsler, Chairman

Attachments

- 0-1 Agenda
- 0-2 Attendance Roster
- 1-1 Minutes October 9 and October 15 meetings
- 2-1 Administrative Orders, Consent Orders issued by Environmental Affairs
- 3-1 Administrative Orders, Consent Orders and Sanction Letters issued by Health Regulation
- 4-1 Proposed Amendment of R.61-107.3, Solid Waste Management: Waste Tires
- 5-1 Proposed New Regulation, Consumer Electronic Equipment Collection and Recovery
- 6-1 Proposed Amendment of R.61-79, Hazardous Waste Management
- 7-1 Proposed Revision of R.61-7, Emergency Medical Services
- 8-1 Proposed Revision of R.61-17, Standards for Licensing Nursing Homes
- 9-1 Proposed Revision of R.61-15, Certification of Need for Health Facilities and Services
- 10-1 2015 Board meeting dates